

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 ASPASIA A. PAPAVALASSIOU  
Deputy Attorney General  
4 State Bar No. 196360  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2199  
Facsimile: (510) 622-2270  
7 E-mail: Aspasia.Papavassiliou@doj.ca.gov  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2011-126**

12 **IAN SCOTT HELSLEY**  
13 3816 Yerba Buena Avenue  
San Jose, CA 95121-1038  
14 **Registered Nurse License No. 573428**

**ACCUSATION**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about October 26, 2000, the Board of Registered Nursing issued Registered  
23 Nurse License Number 573428 to Ian Scott Helsley (Respondent). The Registered Nurse License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 October 31, 2010, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
3 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
4 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
6 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
7 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the  
8 Code, the Board may renew an expired license at any time within eight years after the expiration.

9 6. Section 2770.11 of the Code states:

10 "(a) Each registered nurse who requests participation in a diversion program shall agree to  
11 cooperate with the rehabilitation program designed by the committee and approved by the  
12 program manager. Any failure to comply with the provisions of rehabilitation program may  
13 result in termination of the registered nurse's participation in a program. The name and license  
14 number of a registered nurse who is terminated for any reason, other than successful completion,  
15 shall be reported to the board's enforcement program.

16 "(b) If the program manager determines that a registered nurse, who is denied admission  
17 into the program or terminated from the program, presents a threat to the public or his or her own  
18 health and safety, the program manager shall report the name and license number, along with a  
19 copy of all diversion records for that registered nurse, to the board's enforcement program. The  
20 board may use any of the records it receives under this subdivision in any disciplinary  
21 proceeding."

#### 22 STATUTORY PROVISIONS

23 7. Section 2761(a) of the Code provides that the Board may take disciplinary action  
24 against a licensed nurse who has engaged in unprofessional conduct.

25 8. Section 2762 of the Code states, in pertinent part:

26 "In addition to other acts constituting unprofessional conduct within the meaning of this  
27 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
28 chapter to do any of the following:

1       "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
2 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
3 administer to another, any controlled substance as defined in Division 10 (commencing with  
4 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
5 defined in Section 4022.

6       "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
10 ability to conduct with safety to the public the practice authorized by his or her license. "

#### 11                                   COST RECOVERY

12       9.     Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16                                   DRUGS

17       10.    Dilaudid is a brand name for hydromorphone hydrochloride, an opioid analgesic that  
18 is a Schedule II controlled substance as designated by Health and Safety Code section  
19 11055(b)(1)(K), and a dangerous drug per Code section 4022.

#### 20                                   FACTS

21       11.    On or about March 2, 2010, Respondent was terminated from the Board's Diversion  
22 Program after he failed to abstain from narcotics, and the Diversion Evaluation Committee  
23 deemed him to be a public safety risk.<sup>1</sup> Respondent had referred himself to the program on or  
24 around June 12, 2008, after being caught diverting Dilaudid from Regional Medical Center of San  
25 Jose, where he worked as an emergency room nurse. Respondent diverted Dilaudid from hospital  
26 patients from in or around March 2008 until on or around May 18, 2008, when he was confronted

27       <sup>1</sup> The Board's Diversion Program is a voluntary, confidential rehabilitation program for  
28 registered nurses whose practice may be impaired due to chemical dependency or mental illness.

1 by his supervisor and placed on a leave of absence. Respondent was injecting himself with 15 mg  
2 Dilaudid intravenously at least 3 days a week.

3 FIRST CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct: Unlawful Self-Administration of Controlled Substance)

5 12. Respondent has subjected his registered nurse license to discipline under sections  
6 2761(a) and 2762(a) of the Code in that he unlawfully obtained, possessed, or self-administered a  
7 controlled substance or dangerous drug. The circumstances are set forth in paragraph 11, above.

8 SECOND CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct: Use of Controlled Substance in Dangerous Manner)

10 13. Respondent has subjected his registered nurse license to discipline under sections  
11 2761(a) and 2762(b) of the Code in that he used a controlled substance in a dangerous manner.  
12 The circumstances are set forth in paragraph 11, above.

13 PRAYER

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Registered Nursing issue a decision:

16 1. Revoking or suspending Registered Nurse License Number 573428, issued to Ian  
17 Scott Helsley;

18 2. Ordering Ian Scott Helsley to pay the Board of Registered Nursing the reasonable  
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
20 Code section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 8/16/10

23 *for* Louise Bailey  
24 LOUISE R. BAILEY, M.ED., RN  
25 Interim Executive Officer  
26 Board of Registered Nursing  
27 Department of Consumer Affairs  
28 State of California  
Complainant

SF2010200813  
accusation.rtf